**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.3659 OF 2005**

Rajendra @ Raju Tolani ...Applicant

Vs.

Anil Deepchand Rajpal & Anr. ...Respondents

Shri. M.S. Mohite for the Applicant.
Ms Rajshree Gadhvi A.P.P. for the Respondent No.2.

**CORAM : A. S. OKA, J.**
**DATED : JULY 12, 2005.**

**P.C.:**

1. Heard learned Advocate for the Applicant and the Respondent No.1 appearing in person and the learned A.P.P. for the Respondent No.2. Rule. The Respondent No.1 waives service. The learned A.P.P. waives service for the Respondent No.2. Considering the facts and circumstances of the case, taken up for hearing forthwith.

2. The challenge in this Application is to the order dated 26th May, 2005 passed by the learned Magistrate by which the Application made by the Applicant praying for issuing bailable warrant to the Senior Inspector of Police, R.C.F. Police Station, Chembur for giving the evidence and for production of record was ordered to be filed. As mentioned in the said Application, earlier by order dated 21st May, 2005 the learned Magistrate had allowed the

Application of the applicant praying for issuing witness summons to the said Senior Inspector of Police.

3. The Respondent No.1 has filed an affidavit which reads thus:

> . I say that I have No Objection if the Petitioner is allowed to examine Police Officer of R.C.F. Police Station as a defence witness in Court Case No.312/S/2003 before M.M.Court, Kurla, Mumbai and pray appropriate order amy be passed on any terms and conditions as this Hon'ble Court may deem fit and proper.

The Respondent No.1 is personally present in the Court and he states that he has no objection if learned Trial Judge is directed to issue witness summons to the Senior Inspector of Police, R.C.F. Police Station, Chembur in terms of Application dated 19th May, 2005(Annexure"F" to the Application).

4. Hence, this Application is disposed of by directing that the learned Trial Judge will issue a fresh witness summons to the Senior Inspector of Police, R.C.F. Police Station, Chembur, Mumbai in terms of clause No.(3) of Application dated 19th May, 2005 (Annexure "F" to this Application).

5. The order dated 26th May, 2005 will stand modified to that extent.

6. All contentions of the parties are expressly kept open.

7. Parties and concerned Court to act upon an authenticated copy of this order.

**JUDGE**